Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1995

MILTON KIRTON,

Petitioner,

-against-

STATE OF CONNECTICUT,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE APPELLATE COURT OF THE STATE OF CONNECTICUT

EARLE GIOVANNIELLO, ESQ.
Counsel of Record and
Attorney for Petitioner
P.O. Box 1387
New Haven, CT 06505-1387
(203) 865-0585

QUESTION PRESENTED

Was petitioner denied due process and the fundamental right to a fair trial by the trial court's improper denial of his motion for judgment of acquittal on the charge of Carrying a Pistol Without a Permit and by the prosecutor's numerous improper remarks in his rebuttal argument.

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No. _____

IN THE SUPREME COURT

OF THE

UNITED STATES OF AMERICA

October, 1995

Milton Kirton,

Petitioner,

v.

State of Connecticut,

Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE APPELLATE COURT OF
THE STATE OF CONNECTICUT

Petitioner Milton Kirton respectfully prays that a writ of certiorari issue to review the decision of the Appellate Court of the State of Connecticut that affirmed his conviction in the Superior Court of the State of Connecticut in the Judicial District of Fairfield, Geographical Area Number Two for carrying a pistol without a permit, in violation of Connecticut General Statutes section 29-35(a).

OPINIONS BELOW

The Order On Petition For Certification To Appeal of the Supreme Court of the State of Connecticut appears in Appendix A. The decision of the Appellate Court of the State of Connecticut appears in Appendix B.

JURISDICTION

The Appellate Court's decision was entered on June 27, 1995. The Connecticut Supreme Court's Order On Petition For Certification To Appeal of the Supreme Court of the State of Connecticut was entered on September 13, 1995. This Court's jurisdiction is invoked under Title 28, U.S.C. § 1257(3).

CONSTITUTIONAL AND STATUTORY PROVISIONS

C.G.S. §§ 29-27, 29-35a and 53a-3(19) are set forth in Appendix C, D and E, respectively. Amendments V and XIV to the United States constitution are

set forth in Appendix F and G respectively.

STATEMENT OF THE CASE

Petitioner Milton Kirton respectfully prays that a writ of certiorari issue to review the decision of the Appellate Court of the State of Connecticut that affirmed his conviction in the Superior Court of the State of Connecticut in the Judicial District of Fairfield, Geographical Area Number Two for carrying a pistol without a permit, in violation of Connecticut General Statutes section 29-35(a).

The Trial

Sergeant Roberto Melendez testified that on December 25, 1992, at approximately 9:30 p.m., he heard shots being fired in the area of Laurel and Iranistan in Bridgeport. Sergeant Melendez then received a radio call concerning shots fired in the vicinity of Sherwood and Laurel Avenues. Sergeant Melendez then went to the intersection of Sherwood and Laurel Avenue. After Sergeant Melendez go out of his police car, he was approached by a hysterical Hispanic woman. Sergeant Melendez also noticed two Black men, the shorter and stockier of whom Sergeant Melendez identified as petitioner.

On direct examination, Officer Melendez testified that petitioner dropped an object next to the other man -- Ernest Rogers. On cross-examination,

Sergeant Melendez testified:

> I looked over, the -- I saw the two men and one of the men dropped something which caught my attention. I focused on them at that point. Shortly after that, he started walking away from the other man.

Sergeant Melendez could not tell what the object was.

Petitioner walked toward Sergeant Melendez. Sergeant Melendez heard a sound like an object hitting a fence. Petitioner attempted to approach Sergeant Melendez as the woman screamed at Sergeant Melendez. Sergeant Melendez asked petitioner to stand at the corner, which petitioner did.

Police Officer Hernandez arrived in a second police car. Sergeant Melendez directed Officer Hernandez to speak to the woman. Sergeant then approached Ernest Rogers, who was standing next to the fence.

Sergeant Melendez testified that, before he reached the curb, Ernest Rogers dropped a jacket on the ground. Sergeant Melendez testified that the object was on the ground near Ernest Rogers and that Ernest Rogers appeared to "scoop up" the object with the jacket as he picked up the jacket. After Ernest Rogers picked up the jacket, he put on the jacket.

Sergeant Melendez, assisted by Officer Hernandez, patted down Ernest Rogers. Sergeant Melendez recovered a semi-automatic gun from under Ernest Rogers' right sleeve under his right arm. Although no other weapons were found on Ernest Rogers, Sergeant Melendez testified that Ernest Rogers "might have had" personal items on his person when Sergeant Melendez searched him. Ernest Rogers was arrested.

Sergeant Melendez handed the gun, which contained a magazine with four live rounds, and which had an empty casing lodged in the ejection port, to Officer Roach. The gun, which no longer contained the empty casing, was admitted into evidence as State's Exhibit A. The magazine and the four rounds were admitted into evidence as State's Exhibits M and N, respectively. The empty casing was lost.

Patrolman Frank D'Amore testified that on December 25, 1992, he was patrolling with his partner Patrolman Patrick Roach. At approximately 9:32 p.m., they were dispatched to Laurel Avenue. When Patrolman D'Amore arrived at approximately 9:34 p.m., he was greeted by Sergeant Melendez. After speaking with Sergeant Melendez, Patrolman D'Amore handcuffed Ernest Rogers and petitioner and took them to the police station for booking.

Patrolman D'Amore testified that Patrolman Roach received a gun, including a magazine and four rounds from

Sergeant Melendez, which Patrolman Roach placed into an evidence bag. Patrolman D'Amore searched the area but could not find any empty casings. The gun had a spent casing lodged in the ejection port. The gun was not able to discharge a shot because of the casing stuck in it.

Police Officer Patrick Roach testified that on December 25, 1992, he was working with Officer D'Amore. At approximately 9:32 p.m., they were dispatched to the vicinity of Laurel and Sherwood Avenues. Upon arrival, there were several police cars and two suspects in custody. Sergeant Melendez handed a gun to Officer Roach. Officer Roach "made the gun safe" by taking the magazine out, pulling the slide to the rear and locking it. Officer Roach put the gun in an evidence bag. Officer Roach never saw the empty casing in the gun.

Police Officer Kenneth Rotunno testified that he test fired State's Exhibit A, the Browning .32 caliber semi-automatic pistol that was recovered from Ernest Rogers. In the evidence bag with the gun Officer Rotunno received were bullets and a magazine. The gun fired properly. Officer Rotunno did not testify about the gun's ability to discharge a shot if it had a casing stuck in the ejection port.

Detective David Coyle testified that petitioner was never issued a Connecticut pistol permit. Police Officer Justo Rivera, Jr. testified that

he is responsible for the issuance of pistol permits in Bridgeport and that no such permit was issued to petitioner.

Motion For Judgment of Acquittal

Petitioner moved for judgment of acquittal on both counts. The trial court denied that motion with regard to the count of Carrying a Pistol Without a Permit. The trial court held that because an inference could be drawn that petitioner held the gun in his hand, the State had met its burden on the possession element. The trial court also said:

> Now, the fact that no one saw the pistol in Mr. Kirton's hand, that there was no identification of the item as being a pistol, there was no description of what the item was, there are conflicts of testimony given by Sergeant Melendez in his November eight testimony and the testimony that he gave at the stand, and that there was a substantial disparity in some other portions of the testimony, which I'm not ready to address to at that particular point, all of those factors go to the weight of the evidence and can be argued by Mr. Dunn in his final conclusion.

The trial court also addressed the issue of the pistol's inability to

discharge a shot. The trial court said:

> The State has proved that by having an inference that, number one, testimony was given that the pistol that was offered into evidence was the pistol that was found at the scene, and there had been no change or modifications of that particular pistol except for three aspects of it. Those three aspects are, one, that the spent cartridge was in the ejection port was no longer in the pistol, that the magazine was no longer in the pistol and the butt of the pistol, and that there were four bullets that were no longer in the magazine. None of those amount to a modification of the weapon, and therefore, the State under State v. Crow[e], 174 Conn. 132, has proven that that pistol was not modified because the illumination of -- in that case that was a telescope on a rifle, that was not called a modification of a pistol, and the removal of those particular items does not appear to be a modification of the pistol.
>
> State, having proven that the pistol had not been modified, there is substantial direct evidence that the pistol was working, was fired in, I

believe the testimony was, September of 1993, some nine months later, And, the inference can be drawn that, in fact, since the pistol had not been modified up until that period of time, and therefore, the pistol was capable of being fired at that point.

There was also evidence that the State wishes to infer that the pistol was fired, and they wish to infer that it was fired somewhat recently by the fact that it was -- hearing of gunshots by Sergeant Melendez, and that a spent cartridge was found in the ejection port of Exhibit A, which testimony has indicated that the pistol was jammed, and by the spent cartridge indicating that a spent cartridge is such that would normally be found in a pistol that had been discharged. Therefore, the inference can be argued by the State that, in fact, the pistol was capable of being discharged at that time.

That evidence also goes in favor of the defense because the fact that spent cartridge was in the ejection port, according to testimony, indicates that the pistol is not capable of being discharged with that spent cartridge in

> the ejection port; and therefore, there is an argument that can be made to the jury that, in fact, with that spent cartridge in the ejection port, which is the status that the pistol was found at the time that the police officers first discovered it, would be sufficient evidence for reasonable doubt. But, that is for the jury to decide that factor, and to resolve the differences as to what the fact of a spent cartridge indicates whether a gun had recently been fired; and therefore, was capable of firing on December 25, 1992, or whether, in fact it was not capable of being fired because the spent cartridge prevented it. And that's a jury -- that's a jury question. So, therefore, the motion for judgment of acquittal as to the first count is denied for the reasons that I have stated.

With regard to the count of Unlawfully Discharging a Firearm in violation of Connecticut General Statutes section 53-203, the trial court granted petitioner's motion for judgment of acquittal. The trial court said:

> There is no evidence that, in fact, Mr. Kirton was seen with the pistol in his hand.

There was no evidence that he discharged the pistol, nor was he seen with the discharge of the pistol. There was no admission by Mr. Kirton that, in fact, he even had the pistol, although he did admit by admissions that, in fact, he had no permit. But, if he didn't' have the pistol and it wasn't in his possession, having no permit does not tie it necessarily into having possession of the pistol. There was no evidence done [sic] that the pistol had recently been fired. There had been no powder smells examined, there had been no evidence of the heat of the pistol. There are a number of discharges that had occurred, according to Officer Melendez, but this was in a high crime area, and the mere fact that a pistol was found in a high crime area does not necessarily mean that Mr. Kirton discharged the weapon.

And in fact, if there was any inference that could be drawn, Mr. Rogers, who was the one who picked up the pistol from the ground, could very well have been the gentleman to have discharged the pistol, not Mr. Kirton, and the State's inference regarding the discharge of the pistol applies equally to Mr. Kirton, as it

> does to Mr. Rogers. If, in fact, it applies equally to both, which I believe it does, the inference that must be drawn at that point is in favor of the defendant. And therefore, I must find for the defendant in that particular part, since every inference that the State has argued could equally be an inference that, in fact, Mr. Rogers was the one who discharged the pistol as the State indicates that their inferences indicate that there was a discharge of the pistol.

The Defense Case

Lisa Rogers and petitioner testified for the defense. In addition, out of the presence of the jury, petitioner called Ernest Rogers to the witness stand. Relying upon his Fifth Amendment right against self-incrimination, Mr. Rogers refused to testify.

Lisa Rogers testified that on December 25, 1992, at approximately 9:30 p.m., her boyfriend (petitioner) and she were at her mother's house at 60 Sherwood Avenue for Christmas. Lisa Rogers' brother Ernest, his girlfriend, and children were also there. Petitioner, Lisa Rogers, and her two children then left, got into petitioner's Mazda pickup truck, and noticed that a bag of gifts was missing from the truck.

Petitioner, with Lisa Rogers and her children as passengers, drove onto nearby Laurel Avenue. On Laurel Avenue, they saw a woman carrying the bag that had been taken from the pickup truck and a man accompanying her.

Petitioner stopped the truck, got out, and approached the woman with the bag. Lisa Rogers got out of the truck and took her two children back to her mother's house. When Lisa Rogers returned to her mother's home, she told her brother Ernest what had happened and asked her mother to telephone the police.

Lisa Rogers accompanied her brother Ernest, who was only wearing a tee shirt and shorts, downstairs. Lisa Rogers gave Ernest her coat. Ernest Rogers went over to petitioner who was standing with the woman on the curb.

Lisa Rogers noticed a police car, which petitioner flagged down. Petitioner stood at the corner, while Ernest Rogers detained the girl with the bag. Petitioner walked toward his car, which was still stopped in the middle of the street. Lisa Rogers returned upstairs to her mother's home to get another coat and to check on her children. When Lisa Rogers returned to the street, where she saw several police officers and her brother Ernest in a police car. Lisa Rogers never saw a gun on petitioner's person.

Petitioner testified that on December 25, 1992, at approximately 9:30

p.m., he was at his girlfriend's mother's home. Earlier in the evening, they had visited petitioner's mother's home. After their visit, petitioner, Lisa Rogers, and the two kids went to petitioner's pickup truck, which had been broken into. They got into the pickup truck and left.

Petitioner drove, making a right on Laurel Avenue, where a short Hispanic woman and a tall man were walking down the street. Petitioner recognized a bag the woman was carrying as the bag his mother had put presents in that day.

Petitioner stopped the pickup truck, got out, approached the woman and asked her "where she got the stuff." The woman said something. Petitioner then took the bag from her. Petitioner pointed out a name tag that had Lisa Rogers' name on it.

At that point, Lisa Rogers got out of the truck and went to get her brother and to telephone the police. Meanwhile, petitioner tried to detain the man and woman, but the man got away.

Lisa Rogers returned with her brother Ernest. The detained woman said that the rest of the stuff was around the corner at somebody's house. They were about to go onto Laurel Avenue with the woman, when petitioner left to move his truck, which was still stopped in the middle of the street. Petitioner parked the truck on Sherwood Avenue.

Petitioner, who was not near Ernest Rogers, was trying to catch up to Ernest Rogers, who was standing close to a fence, when petitioner saw a police car coming down Laurel Avenue. Petitioner walked into the street and flagged down the police car.

Sergeant Melendez go out of the police car and told petitioner to step back, because the woman was excited. Petitioner was yelling at Sergeant Melendez, trying to explain to him what happened. Sergeant Melendez told petitioner to step back. Sergeant Melendez walked over to Ernest Rogers, who had been detaining the woman, and began to frisk him. While Sergeant Melendez was frisking Ernest Rogers, another police officer arrived and told petitioner to step further back. The other officer assisted Sergeant Melendez in searching Ernest Rogers. There was a small struggle as Ernest Rogers was being searched. The officers pushed Ernest Rogers against a fence, and the coat Ernest Rogers was wearing got caught in a rosebush. To end the struggle, one of the officers pulled out his gun and pressed it against Ernest Rogers' coat.

Petitioner stood at the corner of Sherwood Avenue as more officers arrived. Petitioner was searched, for the first of three times that night by three different officers. No weapon was recovered from petitioner.

Ernest Rogers was placed in a police car. Sergeant Melendez spoke to

petitioner, who was standing at the corner and spoke to him. Sergeant Melendez walked back to Ernest Rogers and spoke to him. Then, Officer D'Amore walked over to petitioner and told petitioner that Officer D'Amore had to place petitioner in custody. Petitioner asked Officer D'Amore, "For what reason?" Petitioner was handcuffed, placed in a police car, taken to the police station, fingerprinted, and put in a cell.

Verdict and Sentencing

Petitioner was found guilty of Carrying a Pistol Without a Permit. Petitioner was sentenced to three years imprisonment suspended after two years and to three years probation.

Appeal to the Appellate Court

On appeal to the Appellate Court for the State of Connecticut, petitioner argued that the trial court improperly denied petitioner's motion for judgment of acquittal because the evidence of possession was insufficient and because the uncontradicted evidence showed that the gun was inoperable at the time it was seized. Petitioner also argued that numerous improper statements in the prosecutor's rebuttal argument denied him a fair trial.

The Appellate Court affirmed petitioner's judgment of conviction without opinion. The Connecticut Supreme Court denied petitioner's petition for

certification to appeal to that court.

REASONS FOR GRANTING THE WRIT

Certiorari should be granted because petitioner was denied due process of law and his fundamental right to a fair trial by the trial court's improper denial of his motion for judgment of acquittal on the charge of Carrying a Pistol Without a Permit. Because there was insufficient circumstantial evidence that petitioner carried the pistol, and because it was inoperable, petitioner's motion should have been granted.

The evidence of petitioner's possession of the pistol was tenuous. Sergeant Melendez testified that he saw petitioner drop an object to the ground. Sergeant Melendez could not see what the object was. He also said he heard a sound like an object hitting a fence. Sergeant Melendez testified that he saw Rogers drop a jacket over the object petitioner had dropped, scoop up the jacket, and then put on the jacket. When Sergeant Melendez searched Ernest Rogers shortly thereafter, he found a gun in Ernest Rogers' right sleeve. Sergeant Melendez concluded that the gun was the object that petitioner had dropped.

Because there were so many reasonable inferences consistent with petitioner's innocence, the State did not carry its burden of proof. Sergeant Melendez never saw a gun in petitioner's

hand. Because Sergeant Melendez could not say what the object in petitioner's hand was, petitioner may have dropped a different object. Ernest Rogers may have scooped up a different object. Sergeant Melendez testified that Rogers "might have had" other items on him. Thus, the prosecution did not disprove the reasonable inference that Ernest Rogers scooped up a different item.

Furthermore, there was insufficient evidence that the gun was operable. Connecticut General Statutes, section 29-35(a) proscribes the carrying of a pistol, which is defined in Connecticut General Statutes, section 29-27 as a firearm less than twelve inches in length. Connecticut General Statutes, section 53a-3(19) defines firearm, including the requirement that it be capable of discharging a shot. Here, however, the uncontradicted testimony was that the pistol was incapable of discharging a shot at the time it was recovered from Ernest Rogers.

Finally, certiorari should be granted because petitioner was denied due process of law and his fundamental right to a fair trial by numerous improper statements in the prosecutor's rebuttal argument. The Assistant State's Attorney commenced his rebuttal argument as follows:

> I don't know whether to applaud or break down and cry. Mr. Dunn was a prosecutor. He knows theatrics. He knows the

> techniques. What I resent from Mr. Dunn, ladies and gentlemen, is the fact that he called a police officer a liar. Don't forget the fabrication. That aggravates me, and I take it as a personal affront to the State and to the Bridgeport Police Department.

The Assistant State's Attorney improperly presented his opinion of the issues at trial. See State v. Williams, 529 A.2d 653, 662 (1987)("The prosecutor may not express his own opinion . . . as to the credibility of witnesses."); United States v. Modica, 663 F.2d 1173 (2d Cir. 1981).

Furthermore, the prosecutor's sarcastic personal attack against defense counsel was improper. That improper attack continued throughout the rebuttal argument:

> Because if we were to take Mr. Dunn's story, and that 's what it is, as fact, then from the get go, his play on semantics, we know semantics, as he says, you're intelligent people. You would think that he would be correct when he stated his own background. Mr. Dunn stood up before you and said he was a former state's attorney. I can prove that he's wrong. He was never a state's attorney. He's an

> assistant state's attorney. It doesn't make a difference. It's semantics. He was a prosecutor. I'm a prosecutor. My title has no bearing on this trial.
>
> * * *
>
> And that's why I think about what Mr. Dunn has said to you. He knows the ploy of the more red herrings, the more smoke you blow in front of a jury, you give them more reason to doubt it, to get them off the track, to make them think of other things. Don't let them consider what the important facts are.

Thus, the Assistant State's Attorney improperly injected extraneous issues into the case that diverted the jury from its duty to decide the case on the evidence. See State v. Williams, 529 A.2d at 665.

The Assistant State's Attorney gave an improper instruction on the law and again improperly disparaged defense counsel:

> Mr. Dunn says I have to prove, or the evidence should show, that the gun was under a certain length. Nothing in the Connecticut General Statutes in this charge in the elements, that is not an element of

> Carrying a Pistol Without a Permit. What he was referring to was the definition of what a pistol is. So, he's wrong. Another red herring.

In fact, the State must prove beyond a reasonable doubt that the gun met the statutory definition of a pistol or firearm, including the requirement that the firearm have a barrel length of less than twelve inches. State v. Taft, 25 Conn.App. 578, 595 A.2d 918, 920 (1991).

The Assistant State's Attorney also improperly argued facts not in evidence. He invited the jury to speculate on parts of a police report that were not in evidence:

> He, Mr. Dunn, pointed out to the police officer's report. And then he turns around and says, "Don't consider it as evidence." Well, does he want you to consider it or doesn't he want you to consider it? I don't know. He could ask for it to be entered so you could have read it, but he didn't.

That comment also improperly shifted the burden of proof. The Assistant State's Attorney also improperly provided his own testimony concerning police officers' response to a "shots fired" call and how a gun with a casing stuck in the ejection port may be made operable. Those comments improperly argued facts not in evidence and improperly injected the

prosecutor's opinion concerning the issues at trial.

The Assistant State's Attorney continued to bitterly disparage defense counsel:

> I'm not going to put any standards, and I'm not going to put any more red herrings in your mind and blow smoke in front of your eyes and try to distract you from the truth.

Because so much of the State's rebuttal argument was improper, petitioner was denied due process and his fundamental right to a fair trial.

Accordingly, the Court should grant certiorari because petitioner was denied due process of law and his fundamental right to a fair trial by the trial court's improper denial of his motion for judgment of acquittal on the charge of Carrying a Pistol Without a Permit and by the prosecutor's numerous improper remarks in his rebuttal argument.

CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the decision of the Appellate Court of the State of Connecticut in this matter.

Respectfully submitted,

EARLE GIOVANNIELLO, ESQ.
P.O. Box 1387
New Haven, CT 06505-1387
(203) 865-0585
Counsel of Record and
Attorney for Petitioner

November 22, 1995

APPENDICES

APPENDIX A -- ORDER ON PETITION FOR CERTIFICATION TO APPEAL OF THE SUPREME COURT OF THE STATE OF CONNECTICUT DATED SEPTEMBER 13, 1995

SUPREME COURT
STATE OF CONNECTICUT

NO. PSC-95-0107

State of Connecticut

v.

Milton Kirton

ORDER ON PETITION FOR CERTIFICATION TO APPEAL

On consideration of the petition by the defendant for certification to appeal from the Appellate Court (38 Conn. App. 914 [AC 13988]), it is hereby ordered that said petition be, and the same is hereby denied.

BY THE COURT

/s/ Alan M. Gannuscio
ASSISTANT CLERK-APPELLATE

Dated: September 13, 1995
Notice sent: September 14, 1995
Clerk, Superior Court, Fairfield at G.A. 2 (FO2B CR 92 0082507 S)
Clerk, Appellate Court
Reporter of Judicial Decisions
SAO
Earle Giovanniello
Beverly G. Carswell

Office of the Chief State's Attorney-
Appellate Bureau

Earle Giovanniello in support of petition; Christopher T. Godialis, Deputy Assistant State's Attorney, in opposition.

om.

APPENDIX B -- DECISION OF THE APPELLATE COURT OF THE STATE OF CONNECTICUT DATED JUNE 27, 1995

STATE OF CONNECTICUT v. MILTON KIRTON
(13988)

DUPONT, C.J., and SCHALLER and SPEAR, Js.
Argued May 31 - decision released June 27, 1995

Substitute information charging the defendant with the crime of carrying a pistol without a permit, brought to the Superior Court in the judicial district of Fairfield, geographical area number two, and tried to the jury before *Tierney, J.*; verdict and judgment of guilty, from which the defendant appealed to this court.
Affirmed.

Earle Giovanniello, with whom, on the brief, was *Beverly G. Carswell*, for the appellant (defendant).

Christopher T. Godialis, deputy assistant state's attorney, with whom, on the brief, were *Donald A. Browne*, state's attorney, and *Joseph Harry*, assistant state's attorney, for the appellee (state).

PER CURIAM. The judgment is affirmed.

APPENDIX C -- C.G.S. §29-27

Sec. 29-27. "Pistol" and "revolver" defined. The term "pistol" and the term "revolver," as used in sections 29-28 to 29-38, inclusive, mean any firearm having a barrel less than twelve inches in length.

APPENDIX D -- C.G.S. §29-35

Sec. 29-35. Carrying of pistol or revolver without permit prohibited. Exceptions. (a) No person shall carry any pistol or revolver upon his person, except when such person is within his dwelling house or place of business, without a permit to carry the same issued as provided in section 29-28. The provisions of this subsection shall not apply to the carrying of any pistol or revolver by any sheriff, parole officer or peace officer of this state, or sheriff, parole officer or peace officer of any other state while engaged in the pursuit of his official duties, or federal marshal or federal law enforcement agent, or to any member of the armed forces of the United States, as defined by section 27-103, or of this state, as defined by section 27-2, when on duty or going to or from duty, or to any member of any military organization when on parade or when going to or from any place of assembly, or to the transportation of pistols or revolvers as merchandise, or to any person carrying any pistol or revolver while contained in the package in which it was originally wrapped at the time of sale and while carrying the same from the place of sale to the purchaser's residence or place of business, or to any person removing his household goods or effects from one place to another, or to any person while carrying any such pistol or revolver from his place of residence or business to a place or person where or by whom such pistol or revolver is to be repaired or

while returning to his place of residence or business after the same has been repaired, or to any person carrying a pistol or revolver in or through the state for the purpose of taking part in competitions or attending any meeting or exhibition of an organized collectors' group if such person is a bona fide resident of the United States having a permit or license to carry any firearm issued by the authority of any other state or subdivision of the United States, or to any person carrying a pistol or revolver to and from a testing range at the request of the issuing authority, or to any person carrying an antique pistol or revolver, as defined in section 29-33.

(b) The holder of a permit issued to section 29-28 shall carry such permit on his person while carrying such pistol or revolver.

APPENDIX E -- C.G.S. §53a-3

Sec. 53a-3. Definitions. Except where different meanings are expressly specified, the following terms have the following meanings when used in this title:

* * *

(19) "Firearm" means any sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, whether loaded or unloaded from which a shot may be discharged.

* * *

APPENDIX F -- Amendment V to the United States Constitution

AMENDMENT V [1791]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

APPENDIX G -- Amendment XIV to the United States Constitution

AMENDMENT XIV [1868]

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

* * *

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

APPENDIX H -- JUDGMENT FILE DATED SEPTEMBER 13, 1994

Docket Number: (CR 92-82507)

State of Connecticut

vs:

SUPERIOR COURT

Geographical Area 2 at Bridgeport

(Milton Kirton) Date: (Sept. 13, 1994)

PRESENT: HON. (Kevin Tierney)

(Joseph Harry), ASSISTANT STATES ATTORNEY FOR FAIRFIELD COUNTY GEOGRAPHICAL AREA 2 AT BRIDGEPORT ACCUSES (Milton Kirton) of (Bridgeport), CONNECTICUT OF (Carrying A pistol w/o A permit), AT THE TOWN OF (Bridgeport) ON OR ABOUT (Dec. 25, 1992) IN VIOLATION OF CGS SEC. (29-35(a) AS BY INFORMATION ON FILE WILL APPEAR.

TO SAID INFORMATION THE DEFENDANT ON (Jan

27, 1993) PLEADED AND SAID THAT HE WAS NOT GUILTY AND ELECTED TO BE TRIED BY A (JURY) SAID CAUSE HAVING BEEN FULL HEARD AND COMMITTED TO THE (JURY), BY THEIR VERDICT ON (June 22, 1994) FOUND SAID (Milton Kirton) GUILTY AS CHARGED IN SAID INFORMATION.

WHEREUPON IT IS ADJUDGED THAT THE DEFENDANT (Milton Kirton) BE CONFINED IN (Bpt CC) FOR A TERM OF (3 years e/s/a 2 years. 3 yrs prob)

STATE OF CONNECTICUT
SUPERIOR COURT
GEOGRAPHICAL AREA NO. 2
AT BRIDGEPORT

BY THE COURT,

SEP 13 1994

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